CCRB INVESTIGATIVE RECOMMENDATION

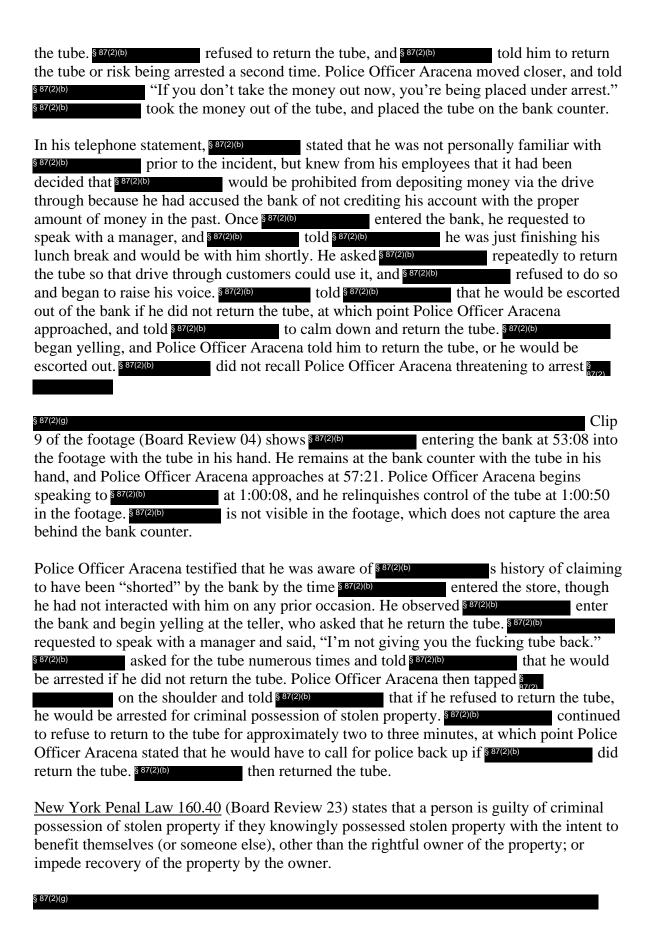
Investigator:		Team:	CCRB Case #:	▼ Force	☐ Discourt.	U.S.
Georgia Rochon		Squad #2	201907494	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
, '		Location of incident.				
Thursday, 08/22/2019 3:15 PM				69	2/22/2021	10/9/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Tin	Date/Time Received at CCRB	
Thu, 08/22/2019 4:31 PM		CCRB	Phone	Thu, 08/2	Thu, 08/22/2019 4:31 PM	
Complainant/Victim	Type	Home Addre	ess			
Witness(es) Home Address						
Subject Officer(s)	Shield	TaxID	Command			
1. POM Jose Aracena	18880	951470	007 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POF Gwendolyn Bishop	04203	952470	069 PCT			
2. POF Lisa Cordero	00445	925118	069 PCT			
3. POM Pedro Sandoval	01311	949615	069 PCT			
4. POM Darren Zhumi	11346	966410	069 PCT			
5. LT Richard Custodio	00000	922194	069 PCT			
Officer(s)	Allegatio	on		Inv	vestigator Recon	nmendation
A.POM Jose Aracena	Abuse: Police Officer Jose Aracena threatened to arrest \$87(2)(b)			est		
B.POM Jose Aracena	Force: Police Officer Jose Aracena used physical force against § 87(2)(b)					
C.POM Jose Aracena	Abuse: Police Officer Jose Aracena threatened § 87(2)(b) with the use of force.					

Case Summary

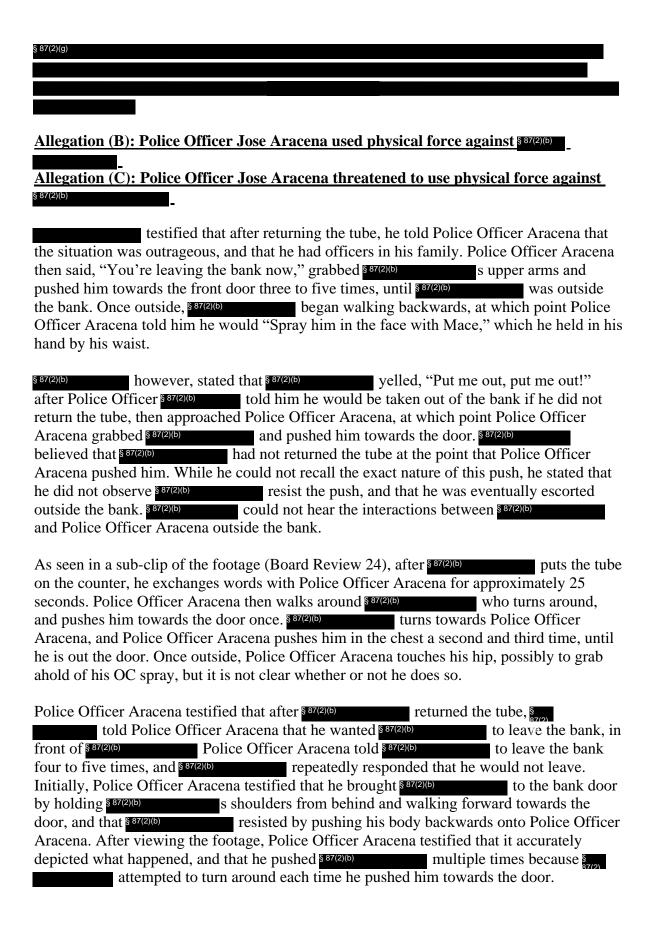
On August 22, 2019, § 87(2)(b) filed this complaint over the phone. On August 22, 2019, at approximately 3:15 p.m., § 87(2)(b) attempted to deposit money via the drive through at the TD Bank located at §87(2)(b) in Brooklyn. He was informed over the intercom that he had to deposit his money inside, then entered the building with his money in the tube provided by the bank. He requested to speak with a manager, § 87(2)(b) who asked § 87(2)(b) to return the tube, as it was bank property, or risk being arrested. At this time, Police Officer Jose Aracena of the 7th Precinct, who was working paid detail at the bank, approached and told \$87(2)(b) that he would be arrested if he did not take his money out of the tube and return it (Allegation A—Abuse of Authority—Threat of arrest—§87(2)(9) did so, and began arguing with Police Officer Aracena, who told him to leave the bank, then grabbed him by the upper arms and pushed him three times towards the bank door (Allegation B—Force—Physical force-\$87(2)(9)). Once outside, Police Officer Aracena allegedly told § 87(2)(b) he would spray him in the face with Mace (Allegation C—Abuse of Authority—Threat of force—§87(2)(9) called 911 to report Police Officer Aracena, and a number of officers responded to the bank. Video footage from the TD Bank was obtained in the course of this investigation. It is located in IAs #45-57 (Board Reviews 04-16), and is summarized in IA #83 (Board Review 03). Body-worn camera (BWC) footage from the BWCs of the officers who responded subsequently was also obtained in the course of the investigation, and it is located in IAs #78-80 (Board Review 17-19) and is summarized in IA #84 (Board Review 20). Police Officer Aracena was not equipped with a BWC at the time of the incident. **Findings and Recommendations** Allegation (A): Police Officer Jose Aracena threatened to arrest §87(2)(b) provided a telephone statement on August 27, 2019 (Board Review 21) and was interviewed at the CCRB on August 28, 2019. §87(2)(b) provided a telephone statement on October 9, 2019 (Board Review 22). Police Officer Aracena was interviewed at the CCRB on October 9, 2019. testified that he was attempting to deposit approximately \$3,000 via the bank drive through on August 22, 2019. He put the money in the tube used to pass the money inside the bank, and was informed that he would have to make the deposit inside. He entered the bank holding the tube with his money, and requested to speak with a entered the lobby, and told § 87(2)(b) they could speak in five minutes, when he was done with lunch. § 87(2)(b) continued to question and § 87(2)(b) asked § 87(2)(b) to return the tube. § 87(2)(b) replied that he did not feel comfortable standing in the lobby with his cash outside the tube.

CCRB Case # 201907494

repeated that that tube was bank property and stated that \$87(2)(b) would be arrested by Police Officer Aracena, who was standing nearby, if he did not return



CCRB Case # 201907494



Once outside, \$87(2)(b) walked towards the door, and Police Officer Aracena told him that if he reentered the bank he would be arrested for trespassing. He did not recall whether he pulled out his OC spray, and stated that he did not tell \$87(2)(b) he would spray him in the face with Mace or threaten to use force against him in anyway. However, he did tell \$87(2)(b) that if he got in his face, he would be arrested for disorderly conduct.
§ 87(2)(g)
Patrol Guide Procedures 221-01 (Board Review 26) and 221-02 (Board Review 27) allow officers to use a reasonable degree of force when it is reasonable to ensure the safety of a member of the service, or when a civilian is refusing to comply with a lawful order.
Patrol Guide Procedure 221-07 (Board Review 25) allows officers to use O.C. pepper spray to gain or maintain control of persons who are actively resisting resist or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons.
§ 87(2)(g)
§ 87(2)(g)
Civilian and Officer CCRB Histories
• has been party to one additional CCRB complaint (Board Review 01).
S 87(2)(b)

• Police Officer Aracena has been a member-of-service for eight years and has been a subject in three additional CCRB complaints and four allegations, none of which were substantiated. [887(2)(9)]

Mediation, Civil and Criminal Histories

• § 87(2)(b)	• §87(2)(b) declined to mediate this complaint.							
• On October 28, 2019, a request for any Notice of Claim filed by §87(2)(b)								
-	otroller. Any response w	dent was submitted to the New $\overline{\text{Yo}}$ will be added to the case file upon references.	•					
	0	Administration (OCA), \$87(2)(5) York City (Board Review 02)	has					
Squad No.:								
Investigator:	C: amataura	Daint Title 9. None	Doto					
	Signature	Print Title & Name	Date					
Squad Leader:								
-	Signature	Print Title & Name	Date					

Print Title & Name

Reviewer:

Signature

Date